

EDWARD H. KUBO, JR. #2499
United States Attorney
District of Hawaii

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 02-00176 DAE
)	
Plaintiff,)	UNITED STATES' MOTION
)	TO CONTINUE TRIAL AND
vs.)	TO EXCLUDE TIME;
)	CERTIFICATE OF SERVICE
EDWARD MERSBURGH,)	
aka "Kawika," (10),)	PRESENT TRIAL DATE: 7/18/2006
)	
Defendant.)	
_____)	

UNITED STATES' MOTION TO CONTINUE
TRIAL AND TO EXCLUDE TIME

The United States, by and through its attorney, the United States Attorney for the District of Hawaii, respectfully moves this Court to continue the trial currently scheduled for July 18, 2006. The following is alleged in support of this motion.

1. This case was recently re-assigned on or about May 9, 2006, from Assistant U.S. Attorney Thomas Muehleck to

Assistant U.S. Attorney Jonathan M.F. Loo. At the time the case was transferred, it was represented to the undersigned that the defendant had agreed, in principle, to plead guilty to Count 18 of the Superseding Indictment, which count charges a violation of Title 21, United States Code, Section 843(b).

2. In the course of plea negotiations with defense counsel, the undersigned has recently learned that the defendant no longer wishes to enter plea of guilty to Count 18 of the Superseding Indictment, but rather wishes to enter a plea of guilty to some other uncharged offense.

3. FBI Special Agent Dan Brady is an essential witness in the above captioned case. Special Agent Brady is currently assigned to the United States Embassy in Morocco. Based on the posture of the case at the time it was transferred, no arrangements were made to have Special Agent Brady travel back from Morocco to assist in preparing the case for trial and testifying. At this point in time, it would be very difficult to get Special Agent Brady back to the District of Hawaii in time to assist in preparing the case for trial and to testify.

4. Undersigned counsel, while aware of the age of this case, wants the Court to be aware that this is the first time the government has moved to continue the trial.

5. On June 23, 2006, undersigned counsel spoke with counsel for the defendant, William M. Domingo, Esq. He has

spoken to the defendant, and the defendant objects to the government's request to continue the trial.

6. Finally, in the event that the captioned motion is granted, the government requests that pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv) that the time period including July 18, 2006, to and including the next trial date is excluded from computations on the grounds that the ends of justice served by granting this continuance outweigh the best interest of the public and defendant in a speedy trial.

Wherefore, it is respectfully requested that a hearing is set to decide the captioned motion.

DATED: June 26, 2006, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

By/s/ Jonathan M. F. Loo
JONATHAN M. F. LOO
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the dates and by the methods of service noted below, a true and correct copy of the foregoing document was served on the following at their last known addresses:

Served Electronically through CM/ECF:

William M. Domingo wdomingo@yahoo.com

June 26, 2006

/s/ M. Derby-Taufa'asau